

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  IMPLEMENTATION OF THE FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL REVIEW ORDER ADOPTING NEW RULES FOR NETWORK UNBUNDLING OBLIGATIONS	DOCKET NO. INU-03-1
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**ORDER OPENING DOCKET AND REQUESTING COMMENTS**

(Issued June 9, 2003)

In an open meeting on February 20, 2003, the Federal Communications Commission (FCC) adopted rules concerning incumbent local exchange carriers' (ILECs) obligations to make elements of their networks available on an unbundled basis. In its announced decision, the FCC made a presumptive finding that local circuit switching will no longer be required to be made available as an unbundled network element (UNE) by ILECs to competitive local exchange carriers (CLECs) that provide service to business customers with high-capacity loops. The FCC describes this as the "enterprise market" and found that competition in these enterprise markets would not be impaired if the local switching UNE were unavailable. The text of the FCC order has not yet been released.

The FCC did indicate that a state would have 90 days from the effective date of the Triennial Review order to rebut the presumption of "no impairment" as it affects the individual state. The Utilities Board (Board) seeks comments in advance of the

release of the text of the FCC's decision on procedural matters. Specifically, the Board seeks comments on the following:

1. Who/what prompts the start of the various impairment analyses by the Board? E.g., does the Board begin an analysis *sua sponte* upon the issuance of the FCC's written order or should the Board wait until it receives a CLEC filing with an allegation of impairment?
2. If the Board were to start its impairment analyses on its own motion, should it make its impairment determinations in a single, generic proceeding that affects all ILECs, CLECs, and regions of the state? Or should it make individualized determinations for different carriers (or classifications of carriers) in different regions? If some proceeding other than a generic case is envisioned, please describe. Would evidentiary hearings be necessary, or could determinations be made on the basis of written comments?
3. What other issues should be addressed as part of the 90-day proceeding?
4. Would other regulatory changes be necessary if the Board were to determine that impairment does exist?

The FCC also announced that its rule changes would discontinue the requirement to offer local switching as a UNE for purposes of serving the "mass market." The rules will set out specific criteria that state commissions must apply to determine, on a granular basis, whether economic and operational impairment exists in a particular market. State commissions must complete these determinations within nine months.

Accordingly, the Board also seeks comments on the following:

5. To what extent should the Board's nine-month proceeding be coordinated or combined with similar investigations in other states in Qwest Corporation's region?
6. Should the Board expand the nine-month proceeding to include other rule changes included in the FCC's Triennial Review Order?

Other significant rule changes were announced by the FCC to be included in its Triennial Review Order. The FCC has indicated that the order will: 1) clarify total element long-run incremental cost rules for purposes of UNE pricing; 2) make transitional provisions to allow for the conversion of UNEs to special access; 3) require shared transport; and 4) permit the commingling of UNEs and other wholesale services such as special access. The Board, therefore, seeks comment on the following:

7. To facilitate the orderly implementation of these significant rule changes, what procedures should the Board adopt?

**IT IS THEREFORE ORDERED:**

1. The Board will docket this matter for investigation as Docket No. INU-03-1.
2. Any interested party may file a request for intervention in this docket no later than June 18, 2003.
3. Any interested party may file written comments no later than 20 days from the date of this order. Comments should be served on all intervenors.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 9<sup>th</sup> day of June, 2003.